



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
August 29, 2000

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Ronda Cahill, Chair
Christine Yoroza, Vice Chair
Gerry Marsh, Secretary
Susan Brady, Member
Richard C. Locke, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Steve Reinmuth, Asst. Attorney General
Ruthann Bryant, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Ronda Cahill at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Minutes

Moved by Commissioner Brady, seconded
by Commissioner Yoroza:

Motion 01-016

**The Commission adopts the minutes
of the regular meeting of July 25,
2000, and the special meetings of
August 2, 2000 and August 24, 2000,
as written.**

Voting for: Commissioners Cahill, Yoroza,
Marsh and Brady

Not voting: Commissioner Locke

Citizen Comments/Concerns

Susan Harris noted that a letter was distributed at the request of Harriet Strasberg who could not be present.

Jamie Lund from the Evergreen Freedom Foundation commented on complaints filed by EFF against four school districts.

Commissioner Comments

No commissioner comments were expressed.

Advisory Matters

Washington State Democrats

Susan Harris reported on a 1999 special election held in the 9th Legislative District regarding which the WA State Democrats conducted an issue advocacy advertising campaign using \$94,000 in exempt funds. A complaint was filed against the State Democrats who, in an effort to rectify the situation, transferred \$94,000 from its non-exempt account into its exempt account. Ms. Harris added that the complaint was dismissed after the Washington State Supreme Court ruled RCW 42.17.640(14) is unconstitutional as applied because it does not permit political parties to use exempt funds for issue advocacy advertisements. The State Democrats are requesting authorization to transfer \$94,000 from its exempt account back into the non-exempt account.

Mr. Paul Berendt, Chair of the State Democratic Party, commented that based on a superior court case, the party felt they followed the guidelines appropriately and asked the Commission to grant the request.

MOTION 01-017

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission authorizes the Washington State Democratic Central Committee to transfer \$94,000 from its exempt contribution account into its non-exempt contribution account.

The motion passed unanimously.

American Heritage Party

Ms. Harris reported on a request by the American Heritage Party to add "AHP" and "AH" as abbreviations for the American Heritage Party that may be used in political advertising.

MOTION 01-018

Moved by Commissioner Marsh, seconded by Commission Brady:

For purposes of political party identification in political advertising, pursuant to WAC 390-18-020, the Commission approves AHP and AH as abbreviations for the American Heritage Party of Washington State.

The motion passed unanimously.

Policy Matter

Mr. Ellis reported on the Governor's Executive Order 00-03 concerning Public Records Privacy Protections in which each agency was directed to institute privacy protections for personal information. The privacy notice covers the following topics:

- Information Collected and How it is Used
- Personal Information and Choice
- Public Disclosure
- Access and Correction of Personal Information
- Cookies
- Security
- Disclaimer
- Contact Information

Ms. Rippie noted that the only personal information on the PDC website will be information required by statute. She also commented that the PDC has never sold personal information nor does the PDC have data sharing agreements with any advertisers or vendors.

Commissioner Yorozu questioned whether the PDC collects and saves email address, since page one states "email address is not collected" and

page two states that the "email address and contents of the email" are collected.

Mr. Ellis reported that an email address and contents are saved only when there is communication, not when the website is visited.

Ms. Rippie suggested deleting "but not the email address" in item 1, page 1.

MOTION 01-019

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission adopts the Privacy Notice Information as amended.

The motion passed unanimously.

Rule-Making

Mr. Ellis reported on the continuation of the rule-making process and proposed draft language of eleven rules noting that staff has filed pre-proposal statements with the Code Reviser and held a Stakeholder Meeting to seek public comment on the possible topics.

WAC 390-14-026

Access Goals Regarding Campaign and Lobbying Reports – Currently the goals are:

Electronic Filing – PDC office within 2 days
PDC website within 7 days

Paper Filing – PDC office within 4 days
PDC website within 14 days

On January 1, 2001 the goals are:

Electronic Filing - PDC office within 2 days
PDC website within 4 days

Paper Filing - PDC office within 4 days
PDC website within 7 days

On January 1, 2002, the goals are:

Electronic Filing – PDC office and web site within
2 days

Paper Filing – PDC office and web site within
4 days

WAC 390-20-146

Reporting of Field Trips and Other Excursions – at the April 25, 2000 meeting, the Commission adopted PDC Interpretation 00-01 effective July 1, 2000. The proposed rule clarifies the reporting requirements for field trips and other excursions.

This same rule will also be placed in WAC 390 chapter 24 in order to provide guidance to persons filing personal financial affairs statements.

WAC 390-16-226

Commercial Loans to Candidates and Candidate Committees – the proposed amendment would implement PDC Interpretation 96-02 and Attorney General Opinion 2000 No. 4 regarding commercial loans to candidates, their committees or campaigns.

WAC 390-24-010 and
WAC 390-24-020

Forms for Statement of Financial Affairs and Forms for Amending Statement of Financial Affairs (PDC Forms F1 and F1A) – eliminate the need to identify dependent children who are not employed and do not have other reportable assets or liabilities and remove space for designating party affiliation since it is not mandated by statute.

Commissioner Brady suggested replacing “Business Telephone” with “Contact Telephone” since many people do not have a business telephone number.

WAC 390-18-010

Political Advertising. Identification of Sponsor – eliminate the need for sponsor identification to be in a printed or drawn box and to have the sponsor identification appear on only the first page instead of each page of the advertising.

WAC 390-13-010

Optional Format for Requests for Lists of Individuals – eliminate the hold harmless agreement section for affidavits from persons

making requests for public records containing lists of individuals.

WAC 390-16-011 and
WAC 390-16-012

Registration Statements for Political Committees and Candidates – adopt the language of the recently approved emergency rules on a permanent basis.

WAC 390-16-044

Statewide ballot issue signature gathering expenses; reporting – repeal this rule as it implements statutory language that has been found unconstitutional.

WAC 390-20-0101

L1- Lobbyist Registration Form – update the contact information on the Lobbyist Registration and emphasize the use of business addresses and telephone numbers, eliminate item number 8 regarding compensation contingency agreements and add space for providing email, cell phone and pager number on the L-1 form.

Staff is requesting approval of the draft language and concurrence to proceed with the rule-making process. Upon approval, a public hearing will be scheduled for October 24, 2000 and the rules would become effective December 1, 2000.

Motion 01-020

Moved by Commissioner Marsh, seconded by Commissioner Brady:

The Commission approves the proposed language as modified by the staff amendments presented.

The motion passed unanimously.

Agency Request Legislation

Ms. Rippie reported on possible agency request legislation, noting that discussion at the August 9th stakeholder meeting centered around five possible measures to be introduced during the next legislative session.

Last Minute Special Reporting

Ms. Rippie reported that Initiative 134 imposed limits on contributions, however independent expenditures may not constitutionally be subject to

limits. She noted that the last time independent expenditures are reported prior to an election is on a filing due seven days prior to that election. As a result, many independent expenditures are not reported until after the election.

Possible legislation would add new language to chapter 42.17 RCW to include special reporting of Independent Expenditure and amend RCW 42.17.105(1):

- 24 hour reporting of independent expenditures of \$1,000 or more for ads published within 21 days of an election.
- Require affidavits stating that the expenditures were not made in cooperation, consultation or concert with candidates who are benefited.
- Increasing the current \$500 threshold for reporting of last minute contributions to \$1,000.

Commission Enforcement Authority

Ms. Rippie commented that current civil penalties of \$1,000 for a single violation and \$2,500 for multiple violations were set in 1985, and have not been adjusted since.

An amendment to RCW 42.17.390 and .395 would reflect the following:

- Increase the penalty authority of the Commission to \$5,000 for each violation.
- Once a violation of chapter 42.17 RCW has been found, allow the courts and the Commission to issue an order requiring individuals to take all actions necessary to comply with state statutes and administrative rules.
- Allow the courts and PDC to order candidates and officers of political committees to pay penalties from personal funds in cases of intentional violations.
- Allow the courts and PDC to order public agency officials/employees to pay penalties from non-public funds for violations of RCW 42.17.130 and .190.

- Prohibit candidates, political committees, lobbyists and lobbyist employers who have not paid their PDC fines from raising and spending money.

Citizen's Action

Ms. Rippie reported that RCW 42.17.400(4) allows citizens to file actions in court to enforce the Public Disclosure Law if the Attorney General and prosecuting attorney have failed to act on the allegations made by the citizen within 45 days.

Possible legislation would amend RCW 42.17.400 to accomplish the following:

- Require persons who wish to file a citizen's action to notify the Public Disclosure Commission as well as the attorney general and prosecutor.
- Give the PDC, attorney general and prosecutor 120 days instead of 45 days within which to act.
- Provide that if the citizen wins in court, the defendant, rather than the state, is liable for the citizen's costs and attorney's fees.

Staff recommended not moving forward with a legislative proposal to change the citizen action section at this time.

Lobbyist Pictorial Directory

Ms. Rippie commented that staff supports repealing RCW 42.17.155 or eliminating the need for PDC to publish a booklet of lobbyist photographs, thus allowing the agency to use the Internet as the medium for publicizing this information.

PDC Housekeeping Measures

Ms. Rippie also suggested four items for inclusion in a housekeeping bill.

- Amend the definition of "General Election" in RCW 42.17.020(21) and the definition of "Primary Election" in RCW 42.17.020(34).
- Repeal language regarding disclosure of signature gathering expenses in RCW

42.17.090(1)(g) found unconstitutional by the Ninth Circuit Court of Appeals.

- Repeal RCW 42.17.380(1) regarding designating the Secretary of State's Office as the place where PDC forms may be filed.
- Repeal RCW 42.17.700, Contributions before December 3, 1992, as it is no longer necessary.

Motion 01-021

Moved by Commissioner Yorozu, seconded by Commissioner Brady:

The Commission authorizes staff to move forward with Agency Request Legislation for Last Minute Special Reporting, Commission Enforcement Authority, Lobbyist Pictorial Directory and Housekeeping Measures.

The motion passed unanimously.

Enforcement Matters
Hearings:

Mr. Reinmuth noted that the Vancouver School District case has been continued, at the request of the district, based on a scheduling conflict.

Castle Rock School District
case #00-879

Assistant Attorney General Steve Reinmuth summarized the case against the Castle Rock School District for violation of RCW 42.17.680(4) for failing to maintain open for public inspection a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee, as well as a violation of RCW 42.17.680(3) for failing to obtain written authorization prior to withholding wages for contributions to a political committee.

Mr. Reinmuth read the Stipulation of Facts and Violation into the record noting that the respondent and staff have been unable to arrive at a mutually agreeable penalty recommendation for the Commission's consideration.

Mr. Reinmuth also summarized a letter from the Castle Rock School District noting that the school had been under a major remodel and files and records were required to be placed in other storage areas. He also noted that one of the district's major medical carriers changed policies resulting in re-enrollment of staff and the payroll authorization for WEA-PAC was overlooked, therefore, deductions just rolled over from the prior year.

Commissioner Cahill commented that the law clearly states 36 months of records must be open for public inspection, but Castle Rock had archived their records.

MOTION 01-022

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission accepts the Stipulated Facts and Violation in PDC Case #00-879, Castle Rock School District, and assesses a penalty of \$2,500 with \$1,500 suspended based on no future violations of RCW 42.17.680.

The motion passed unanimously.

*Everett School District
Case #00-874*

Mr. Reinmuth summarized the case against the Everett School District for violation of RCW 42.17.680(4) for failing to maintain open for public inspection a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee. Mr. Reinmuth also read the Stipulation of Facts into the record.

Mike Hoge, attorney for the Everett School District, addressed the Commission arguing that RCW 42.17.680(4) does not require documents to be kept onsite, only that they be made available upon request within a reasonable amount of time. He also noted that the forms were secured and

maintained by the union and are now available onsite.

Commissioner Cahill commented that the forms must be kept onsite where they would be immediately available to any person wishing to see them. She also recommended keeping them in a binder with social security numbers redacted.

MOTION 01-023

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission accepts the Stipulation of Facts in PDC Case #00-874, Everett School District, finds the Everett School District in violation of RCW 42.17.680(4) and assesses a penalty of \$1,000, with \$500 suspended based on no future violations of RCW 42.17.680.

The motion passed unanimously.

*Kent School District
Case #00-877*

Mr. Reinmuth summarized the case against the Everett School District for violation of RCW 42.17.680(4) for failing to maintain open for public inspection a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee. Mr. Reinmuth also read the Stipulation of Facts into the record noting that the documents were available in the office, there was a miscommunication to Mr. Lund resulting in Mr. Lund not being able to view the forms.

Mike Harrington, General Counsel of the Kent School District, reported that the request was made during the lunch hour when he was in a meeting and his assistant was away from the office. The forms were in the assistant's desk drawer in a file. Mr. Harrington also commented that he sent an email to Mr. Lund letting him know that he could make an appointment anytime to see the records.

MOTION 01-024

Moved by Commissioner Locke, seconded by
Commissioner Yorozu:

The Commission dismisses PDC Case #00-877, Kent School District.

The motion passed unanimously.

Reporting Modifications

New

*J. Richard McEntee, Candidate
State Auditor*

Mr. Stutzman reported that Mr. McEntee requests an exemption from reporting business customers and other government agencies paying St. Martin's College over \$7,500.

MOTION 01-025

Moved by Commissioner Cahill, seconded by
Commissioner Marsh:

The Commission grants the reporting modification for J. Richard McEntee, as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Bradley S. Wolf, Candidate
Freeholder, Kitsap County*

Mr. Stutzman reported that Mr. Wolf requests an exemption from reporting business customers of the law practice of Wolfstone, Panchat & Bloch, P.S., Inc.

MOTION 01-026

Moved by Commissioner Brady, seconded by
Commissioner Marsh:

The Commission grants a reporting modification to allow Bradley S. Wolf to satisfy the reporting requirements of RCW 42.17.241 (1)(g)(ii) by identifying for the appropriate reporting period:

- (a) The names of the reportable business clients for whom the applicant has done legal work;
- (b) Other reportable business clients of the law firm whose interests are significantly affected by the actions of the Freeholders of Kitsap County, whose identities become known to the applicant by any means;
- (c) The names of the reportable business clients of the law firm listed in Martindale Hubbell, the firm's publicity brochure(s), the firm's resume, or whose identities are otherwise publicized; and
- (d) All governmental clients that have done business with the law firm.

The applicant, if elected, shall recuse himself from participating in decisions in his elected capacity that affects the interests of the law practice for which the reporting modification was requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewal (no change)
*Richard M. Roozen, School
Director, Mt. Vernon School
District*

Mr. Stutzman reported that Mr. Roozen is requesting an exemption from reporting business customers of Washington Bulb Company, Inc., except for customers from the State of Washington. This request covers reports filed in 1999 and 2000.

MOTION 01-027

Moved by Commissioner Marsh, seconded by Commissioner Brady:

The Commission grants the reporting modification for Richard M. Roozen, as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Working Lunch

During the working lunch, Michael Smith conducted a presentation on the agency's query system and web site.

Executive Session

The Commission went into executive session at 2:05 p.m. to discuss possible litigation with legal counsel.

Public Session

The Commission returned to public session at 2:25 p.m.

Staff Reports

Executive Director

Vicki Rippie reported on the status of the FY 2000 and 2001 budgets and recapped revenue receipts for the current biennium. She also noted that the 2001-2003 budget request will be submitted by the end of the month and the JLARC staff is expected to provide a draft audit report by the end of October.

Ms. Rippie recommended that she, Susan Harris and Michael Smith attend the COGEL conference in December.

Commissioner Cahill commented that all three staff members would benefit from attending the conference and the Commission agreed.

Assistant Director

Susan Harris reported on the hiring of a new Investigator, Nick Hawkinson, as well as two temporary data entry employees, Janet Porter and Deanna Mickelson.

Ms. Harris commented that brief enforcement hearings were held for four candidates and eight lobbyist employers who failed to file their L3 reports. She also reported that 101 reminder letters were mailed to candidates who failed to file their F-1 and C-1 reports in an effort to have the reports available before the election.

Chief Technology Officer

Michael Smith briefed the Commission on the web site usage, reporting that August has been a record month with respect to hits on the PDC site. He also updated the status of the new imaging system and the database query system.

Assistant Attorney General

Nancy Krier summarized the status of pending litigation. Ms. Krier commented that the Evergreen Freedom Foundation v. PDC is scheduled for oral argument on September 28, 2000.

Adjournment

Commissioner Cahill adjourned the meeting at 3:15 p.m. The next meeting is scheduled for Tuesday, September 26, 2000.

Approved by the Commission 9/26/00